

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

APR 25 2019

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

JAMES W. McCORMACK, CLERK
By: 
DEP CLERK

MABELENE MORENS

PLAINTIFF

VS.

CASE NO. 3:19-cv-126-DPM

DAKOTA DUNKLIN, IN HIS INDIVIDUAL CAPACITY

DEFENDANT

COMPLAINT

Comes the Plaintiff, by and through Counsel, **SUTTER & GILLHAM, P.L.L.C.**; and, for this Complaint, she states:

PARTIES & JURISDICTION

1. Plaintiff is a resident and citizen of Mississippi County, Arkansas, who was shot by Dakota Dunklin, Police Officer, acting and employed by the City of Osceola, a municipal entity. This is an action to address depravation of Plaintiff's substantive due process rights under 42 USC 1983, as well as for common law battery and aggravated assault. This Court has federal question and subject matter jurisdiction under 28 USC 1331, as well as supplemental jurisdiction over Plaintiff's state claims under 28 USC 1337. Venue is proper since the acts giving rise to this action arose in this Court's district.

GENERAL ALLEGATIONS & FACTS

2. Defendant engaged in a traffic stop in front of Plaintiff's house.
3. Without legal justification, and being in no imminent danger, Defendant drew his weapon and began spraying the neighborhood with bullets.
4. As a result of Defendant's intentional conduct, Plaintiff was shot for no good reason.

This case assigned to District Judge Marschall
and to Magistrate Judge Harris

COUNT I

5. Plaintiff realleges the foregoing as if more fully set out herein.
6. At all times relevant hereto, Defendant was a police officer acting under the color of law.
7. Plaintiff had clearly established right to her bodily integrity, as well as a clearly established right to substantive due process.
8. Defendant drew his weapon and began firing in an intentional manner.
9. Defendant intended to spray the neighborhood with bullets and this conduct shocks the conscience.
10. Indeed, as a result of being shot by the Defendant, Plaintiff suffered excruciating pain, incurred medical bills and will continue incur medical bills in the future, as well as permanent scarring and severe mental and emotional distress.
11. Defendant's actions were so egregious as to justify the imposition of punitive damages, as allowed by the Arkansas Civil Rights Act in 42 USC 1983.

COUNT II

12. Plaintiff realleges the foregoing as if more fully set out herein.
13. By virtue of the facts alleged herein, Plaintiff is a victim of common law battery, as well as a felony of aggravated assault.

14. As a direct and proximate cause of Defendant's actions alleged herein, Plaintiff has suffered severe mental and emotional distress, experienced severe pain, scarring, lost wages, and incurred medical bills, in the past and will in the future.

15. Defendant's actions have been so egregious so as to warrant the imposition of punitive damages.

WHEREFORE, Plaintiff prays for appropriate compensatory and punitive damages seeking seventy-five thousand dollars (\$75,000); for a trial by jury; for costs and a reasonable attorneys' fees and all other just and proper relief.

Respectfully submitted,

SUTTER & GILLHAM, P.L.L.C.

Attorneys at Law
P.O. Box 2012
Benton, AR 72018
501/315-1910 Office
501/315-1916 Facsimile
Attorneys for the Plaintiff

By:

/s/ Luther Oneal Sutter
Luther Oneal Sutter, Esq., ARBN 95-031
luther.sutterlaw@gmail.com

By:

/s/ Lucien R. Gillham
Lucien R. Gillham, Esq. ARBN 95-031
Lucien.gillham@gmail.com